

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

TAYLOR ASHLEY PARKER-DIPEPPE,

Defendant.

No. CR20-032JCC

**RESPONSE TO DEFENDANT'S  
MOTION TO PROCEED WITH  
GUILTY PLEA HEARING BY  
TELECONFERENCE**

The United States of America, by and through Brian T. Moran, United States Attorney for the Western District of Washington, and Thomas M. Woods, Assistant United States Attorney for said District, respectfully submits this response to the defendant's motion to proceed with a guilty plea hearing by teleconference. As set forth below, the defendant has set forth sufficient grounds for the Court to take the guilty plea remotely.

**I. BACKGROUND**

The defendant is currently charged with multiple crimes stemming from the defendant's involvement in a scheme to mail and/or deliver threatening posters to journalists and advocates, particularly Jews and other minorities. The parties have reached a tentative agreement to resolve the case. Parker-Dieppe is expected to plead

1 guilty to Count 1 of the Superseding Indictment, which charges Conspiracy, in violation  
2 of Title 18, United States Code, Section 371. Under the agreement, the parties will be  
3 free to recommend any sentence.

4 By successive general orders of the Court, the Seattle courthouse is currently  
5 closed. The defendant now asks this Court to set a hearing—which all parties would  
6 attend remotely—so that the defendant can enter plea of guilty.

## 7 II. APPLICABLE LAW

8 The Federal Rules of Criminal Procedure make no provision for a defendant to  
9 enter a guilty plea except while present in open court. Although some of the rules permit  
10 certain hearings to take place by video teleconferencing, entry of a guilty plea to a felony  
11 offense is not among them. *See* Fed. R. Crim. P. 5(f) (permitting initial appearance by  
12 video if the defendant consents); Fed. R. Crim. P. 10(c) (permitting arraignment by video  
13 if the defendant consents); Fed. R. Crim. P. 43 (permitting, *inter alia*, arraignment, plea,  
14 trial, and sentencing by video in misdemeanor cases if the defendant consents). Further,  
15 Rule 11 requires the court accepting the defendant’s guilty plea to personally address the  
16 defendant in open court. Fed. R. Crim. P. 11(b)(1), (2).

17 In light of the COVID-19 pandemic and public health crisis, Congress enacted the  
18 Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). That statute  
19 provides that certain criminal proceedings may occur by video teleconferencing during  
20 the coronavirus national emergency. CARES Act, § 15002. Specifically, the legislation  
21 permits a guilty plea in a felony case to be entered via video teleconference if a number  
22 of conditions are met.

23 First, the Judicial Conference of the United States must find that the coronavirus  
24 emergency will materially affect the functioning of the federal courts generally or a  
25 particular court. CARES Act, § 15002(b)(2)(A). It has done so. *See* “Judiciary  
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1 Authorizes Video/Audio Access During COVID-19 Pandemic,” Administrative Office of  
2 the United States Courts (published March 31, 2020).<sup>1</sup>

3 Second, the chief district judge of the affected district must specifically find that  
4 “felony pleas under Rule 11 of the Federal Rules of Criminal Procedure . . . cannot be  
5 conducted in person without seriously jeopardizing public health and safety.” CARES  
6 Act, § 15002(b)(2)(A). Chief Judge Martinez has done so. GO 09-20 (June 25, 2020).

7 Third, the district judge in the particular case must find “for specific reasons that  
8 the plea . . . in that case cannot be further delayed without serious harm to the interests of  
9 justice.” CARES Act, § 15002(b)(2)(A); *see also* GO 04-20. In the defense motion, the  
10 defendant outlines the serious risks of flying from Florida, where the defendant currently  
11 lives. The defendant also mentions wanting to move on with life, and avoid the need for  
12 multiple continuances, given the courthouse remains closed. These grounds are adequate  
13 for the Court to conclude that delaying entry of plea would result in the requisite “serious  
14 harm to the interests of justice” under the CARES Act.

15 Finally, conducting a hearing by video teleconferencing “may only take place with  
16 the consent of the defendant.” CARES Act, § 15002(b)(4); *see also* GO 04-20. That  
17 consent should be articulated on the record, although it need not be in writing. GO 04-20.  
18 It appears that the defendant will consent.

19 In addition to proceeding by video teleconference, entry of a guilty plea by  
20 telephone conference instead is also authorized if an additional criterion is met: “video  
21 teleconferencing is not reasonably available.” CARES Act, § 15002(b)(2)(A). Video  
22 teleconferencing is available in this court, and has been successfully used for a number of  
23 hearings over the last couple of months. The defendant can attend via video (using the  
24 WebEx platform) at the same time as Mr. Mazzone, the defendant’s attorney. A separate  
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27 <sup>1</sup> This material is available at [https://www.uscourts.gov/news/](https://www.uscourts.gov/news/2020/03/31/judiciary-authorizes-videoaudio-access-during-covid-19-pandemic)  
28 2020/03/31/judiciary-authorizes-videoaudio-access-during-covid-19-pandemic.

1 line can be established to allow the defendant and Mr. Mazzone to confer during the  
2 hearing.

### 3 III. CONCLUSION

4 If this Court finds that delaying entry of the defendant's guilty plea in this case  
5 cannot be further delayed without serious harm to the interests of justice, the government  
6 respectfully requests that the Court make a record of that finding, either in writing if the  
7 matter is referred to a magistrate judge for entry of the plea, or orally during the hearing  
8 if this Court intends to take the plea. The government also respectfully requests that, at  
9 the beginning of the plea hearing, the judicial officer personally address the defendant to  
10 confirm that the remote hearing is held with consent. Finally, because video  
11 teleconferencing is available in this district, the government requests that any such  
12 hearing occur by video instead of only by telephone.

13 Dated this 25th day of August, 2020.

14 Respectfully submitted,

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